

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

United States of America,

Plaintiff,

v.

\$18,800.00 in United States Currency,

Defendant.

Civil Action No.: 5:19-CV-1534 (GTS/ATB)

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

The United States of America brings this verified complaint for forfeiture *in rem* against the above-captioned asset (the “defendant currency”) and alleges as follows:

NATURE OF THE ACTION

This is an action *in rem* brought pursuant to 21 U.S.C. § 881(a)(6), 18 U.S.C. § 981(a)(1)(A) and Rule G of the Supplemental Rules for Certain Admiralty or Maritime Claims and Asset Forfeiture Actions. Forfeiture is sought of the defendant currency as money furnished or intended to be furnished in exchange for a controlled substance, proceeds traceable to such an exchange, or money used or intended to be used to facilitate a violation of 21 U.S.C. § 841, and as property involved in the transportation or transmission of funds that are known to have been derived from a criminal offense, or are intended to be used to promote or support unlawful activity, in violation of 18 U.S.C. §§ 1956, 1957 and 1960.

THE PARTIES

- 1) Plaintiff is the United States of America.
- 2) The defendant currency is \$18,800.00, which is in the custody of the United States.

JURISDICTION AND VENUE

- 3) This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§

1345 and 1355.

4) This Court has *in rem* jurisdiction over the defendant currency pursuant to 28 U.S.C. § 1355(b).

5) Venue is proper in this district pursuant to 28 U.S.C. §§ 1355 and 1395.

FACTS

6) On July 30, 2019 at approximately 3:15 p.m., Walton Police Department (“WPD”) dispatch received an anonymous telephone tip that a tan, four-door Honda Accord with Georgia plates was seen driving erratically in the Town of Walton, Delaware County, New York.

7) WPD dispatched an Officer to the area, who observed a vehicle matching the anonymous caller’s description traveling at an excessive rate of speed in the Village of Walton.

8) The Officer initiated a traffic stop at 3:28 p.m. for speeding and obstructed view¹.

9) The Officer approached the passenger side of the vehicle and requested that the passenger roll down the window, at which time he detected a strong odor of marijuana.

10) The driver of the vehicle was Kahlil Wilson (“Wilson”), and his passenger was Fateem Smith (“Smith”). Both occupants admitted they had smoked marijuana immediately before getting in the vehicle.

11) The titled and registered owner of the vehicle is Barbara Lynn Small, Wilson’s mother.

12) At the time of the traffic stop, Wilson and Smith denied possessing drugs or any large sums of money exceeding \$10,000.00.

13) Wilson and Smith granted consent to the Officer’s request to search the vehicle. The Officer first observed a “blunt effects” air freshener bottle located on the driver side door

¹ The vehicle had multiple air freshener “trees” hanging from the rearview mirror.

pocket, which is known by law enforcement to be used to cover the odor of marijuana.

14) The Officer found two clear plastic bags under the gas cap cover containing 33.5 grams of marijuana and 7.7 grams of psychedelic mushrooms, respectively. Wilson claimed ownership to the drugs.

15) The Officer searched the trunk and found a blue, Nike duffle bag with several compartments. A small compartment in the bag contained Smith's wallet with his NYS ID, and two small boxes wrapped in rubber bands containing THC cartridges.

16) A large compartment in the bag contained two clear plastic bags with marijuana brownies, which Wilson claimed were his.

17) The Officer found an aluminum-lined bag at the bottom of the duffle bag which contained bubble wrapped currency in large dollar amounts, which was further wrapped in black rubber bands. Foil-lined bags are known by law enforcement to be used to conceal contraband items from x-ray machines and narcotics detection dogs.

18) Smith claimed ownership of the currency in the aluminum-lined bag, stating that it contained \$16,000.00 that he had earned from various jobs over the past two years in Cooperstown, New York, including employment as a chef, babysitter, and off-the-books engineer. When asked why he had such a large amount of currency in the vehicle, he stated that he "did not trust banks."

19) When questioned further, Smith provided contradictory answers. He changed the amount claimed to be in the bag to \$17,000.00, and said that he was transporting the money to Bronx, New York, to deposit in a bank.

20) Smith was unable to provide an explanation for the manner in which the currency was packaged, the name of the bank where he was allegedly planning to deposit the currency, or the reason for changing his initial statement about why he was in possession of the of currency.

21) Smith resides in Oneonta, but said that he frequently travels between Oneonta and the Bronx, which is known to law enforcement as a route often used for drug and drug proceeds transportation.

22) On June 23, 2018, Smith was observed smoking marijuana in a public place in Bronx, New York and was arrested and arraigned in the Bronx County Criminal Court for Criminal Possession of Marijuana in the 5th Degree in A Public Place.

23) With respect to the traffic stop at issue, Wilson was arrested and charged with two counts of Criminal Possession of a Controlled Substance in the 7th Degree and Criminal Possession of Marijuana in the 5th Degree, which was eventually reduced to disorderly conduct. Wilson was fined \$468.00 and was released on a Conditional Discharge of 1-year.

24) With respect to the traffic stop at issue, Smith was arrested and charged with one count of Criminal Possession of a Controlled Substance in the 7th Degree, which was eventually reduced to disorderly conduct. Smith was fined \$225.00 and was released on a Conditional Discharge of 1-year.

25) Subsequent to the arrests, WPD was advised by a confidential informant that an African American male named "Teem" was selling marijuana across the street from Hartwick College in Oneonta, New York. The description matched Smith, who has the nickname "Teem," tattooed on his right forearm.

CONCLUSION

26) As required by Supplemental Rule G(2)(f), the facts set forth above support a reasonable belief that the government will be able to meet its burden of proof at trial. Specifically, probable cause exists to believe that the defendant currency is money furnished or intended to be furnished in exchange for a controlled substance, proceeds traceable to such an exchange, or

money used or intended to be used to facilitate a violation of 21 U.S.C. § 841 and as property involved in the transportation or transmission of funds that are known to have been derived from a criminal offense or are intended to be used to promote or support unlawful activity, in violation of 18 U.S.C. §§ 1956, 1957 and 1960.

WHEREFORE, pursuant to Supplemental Rule G, plaintiff the United States of America, respectfully requests that the Court:

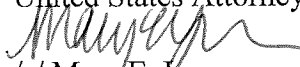
- a) Issue a warrant of arrest *in rem*, in the form submitted with this complaint;
- b) Direct any person having any claim to the defendant currency to file and serve their verified claims and answers as required by 18 U.S.C. § 983(a)(4) and Supplemental Rule G;
- c) Enter judgment declaring the defendant currency to be forfeited and condemned to the use and benefit of the United States; and
- d) Award such other and further relief to the United States as it deems proper and just.

Dated: December 11, 2019

Respectfully Submitted,

GRANT C. JAQUITH
United States Attorney

By:


/s/ Mary E. Langan

Mary E. Langan
Assistant United States Attorney
Bar Roll No. 518971

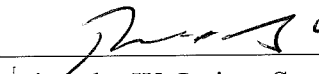
VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF [ONONDAGA])

Timothy W. Irving, being duly sworn, deposes and states:

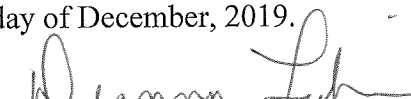
I am a [Special Agent with Homeland Security Investigations]. I have read the foregoing Complaint for Forfeiture and assert that the facts contained therein are true to the best of my knowledge and belief, based upon knowledge possessed by me and/or on information received from other law enforcement officers

Dated this 11 day of December, 2019.



[Timothy W. Irving, Special Agent |
[Homeland Security Investigations |

Sworn to and subscribed before me this 11th day of December, 2019.



Notary Public

DEANNA LIEBERMAN
Notary Public, State of New York
No. 01LI6105102
Qualified in WAYNE County 2020
Commission Expires FEBRUARY 2, 2020

CIVIL COVER SHEET

Case No. 5:19-CV-1534

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff Onondaga
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Mary E. Langan, Assistant U.S. Attorney (315) 448-0650
United States Attorney's Office, 100 South Clinton Street
Syracuse, New York 13261

DEFENDANTS

\$18,800.00 in United States Currency,

County of Residence of First Listed Defendant Onondaga
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

21USC 881(a)(6), 18 USC 981(a)(1)(A)

Brief description of cause:

Drug proceeds/facilitation/involved in transmission of funds derived from criminal offense/promoting SUA

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

12/11/2019

s/Mary E. Langan

FOR OFFICE USE ONLYRECEIPT # _____ AMOUNT Waived APPLYING IFP _____ JUDGE GTS MAG. JUDGE ATB

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